

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
Case No. 4:24-CV-00051-M-RN**

CYNTHIA B. AVENS,)	
)	
Plaintiff,)	
)	
v.)	<u>ECU HEALTH’S MOTION FOR</u>
)	<u>EXTENSION OF TIME</u>
)	<u>TO RESPOND TO PLAINTIFF’S</u>
FARIS C. DIXON, JR., DISTRICT)	<u>AMENDED COMPLAINT</u>
ATTORNEY, PITT COUNTY)	
MEMORIAL HOSPITAL, INC.,)	JURY DEMAND
DR. KAREN KELLY, MEDICAL)	
EXAMINER, JOHN/JANE DOE,)	
and JOHN/JANE DOE)	
)	
Defendants.)	

Defendant Pitt County Memorial Hospital, Inc. (“ECU Health”), pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), hereby files this Motion for Extension of Time to Respond to the Amended Complaint and states the following in support thereof:

1. On March 22, 2024, Plaintiff Cynthia B. Avens (“Avens”) filed her original fifty-eight-page Complaint in the United States District Court for the Eastern District of North Carolina. (Docket Entry 1).

2. ECU Health filed a Motion to Dismiss Avens’ Complaint on May 29, 2024. (Docket Entry 22). Defendants Faris C. Dixon, Jr. (“DA Dixon”) and Karen Kelly, M.D. (“Dr. Kelly”) also filed Motions to Dismiss. (Docket Entries 24, 26).

3. Avens then filed an eighty-four-page Amended Complaint on June 18, 2024, to which she attached thirteen exhibits that were not attached to the original Complaint. (Docket Entry 33).

4. On June 26, 2024, the Court entered an Order denying Defendants' Motions to Dismiss without prejudice given the filing of the Amended Complaint and directed Defendants to respond to the Amended Complaint in accordance with Federal Rule of Civil Procedure 15(a). (Docket Entry 37).

5. The period in which to file and serve a response to the Amended Complaint under Rule 15(a) has not yet expired, and ECU Health's deadline to respond to the Amended Complaint has not previously been extended.

6. Avens' Amended Complaint contains a host of new and altered allegations against ECU Health, including but not limited to an attempt to bolster her contention that ECU Health is a state actor. Given the breadth and nature of Avens' amended allegations, ECU Health needs additional time to respond to the Complaint.

7. As such, ECU Health requests an extension of time up to and including July 16, 2024, to file a response to the Amended Complaint.

8. The additional time sought is not for purposes of delay. No parties will be prejudiced by this extension, and it will serve the interests of judicial economy.

9. Pursuant to Local Rule 6.1, the undersigned counsel consulted with Avens and with counsel for DA Dixon and counsel for Dr. Kelly about this Motion, and all parties have consented to ECU Health's requested extension of time to respond to the Amended Complaint.

10. Good cause thus exists for the requested extension of time.

For these reasons, ECU Health respectfully requests that the Court grant the Motion and permit ECU Health to file its response to the Amended Complaint on or before July 16, 2024.

Respectfully submitted, this the 27th day of June, 2024.

Respectfully submitted,

/s/ Daniel D. McClurg
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon all counsel of record via the Clerk of Court's ECF system and upon Plaintiff Cynthia B. Avens via U.S. Mail, postage prepaid, at the address listed below, this June 27, 2024:

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